

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,
Plaintiff,
v.
DANA JARVIS, et al,
Defendants.

No 1:05cr01849-15 JH

**DEFENDANT HOTHAN'S UNOPPOSED MOTION TO CONTINUE
CHANGE OF PLEA REHEARING**

DEFENDANT MATTHEW HOTHAN, in support of his unopposed *Motion to Continue Change of Plea Hearing*, states

1. On Monday, 21 May 2007, the court rescheduled the change of plea rehearing by the following minute order: "Set/Reset Hearings as to Matthew Hotthan: Change of Plea Hearing reset for Tuesday, 5/22/2007 at 09:30 AM in Albuquerque - 560 Cimarron Courtroom before Magistrate Judge Don J. Svet. THIS IS A TEXT ONLY ENTRY. (dds)." Doc 975.

2. Defense counsel has previously scheduled hearings in Santa Fé tomorrow, including an evidentiary motion hearing before Judge Vázquez. Defense counsel has been unable to move those hearings, and therefore is unavailable tomorrow for any hearing in Albuquerque. Obviously counsel in any change of plea hearing performs more than ministerial acts and, given the difficulties of the prosecution in explaining the plea documents at the first plea hearing in this particular

case, defense counsel cannot in good conscience entertain substitute counsel standing in his stead.

3. Given the complexities of the plea, both parties agree that the best interests dictate that the assigned prosecutor attend to the change of plea hearing. AUSA James Braun is not available for the hearing until 31 May 2007.

4. AUSA Braun does not oppose the relief requested in this motion.

WHEREFORE defendant Hothan requests that the court:

- A. Vacate the change of plea setting and reset at a time convenient for all parties after 31 May 2007; and,
- B. Grant such further relief as justice requires.

/s/ Electronic Signature
Stephen D Aarons
Counsel for Defendant Hothan
300 Catron Street; PO Box 1027
Santa Fé NM 87504-1027

Certificate of Service

A copy of this motion has been provided electronically to opposing counsel:

James R Braun, Assistant US Attorney
Dist of New Mexico
Post Office Box 607
Albuquerque NM 87103-0607

/s/ Stephen D Aarons
Counsel for Defendant Hothan